

DISTRICT OF COLUMBIA  
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ALCOHOLIC BEVERAGE CONTROL BOARD  
+ + + + +  
MEETING

IN THE MATTER OF:

Backdoor, Inc.  
t/a Bachelor's Mill,  
Backdoor Pub  
1104 8th Street, SE  
License No. 11277  
Retailer CT  
ANC 6B  
Case No. 14-251-00044

Fact Finding  
Hearing

April 2, 2014

The Alcoholic Beverage Control  
Board met in Alcoholic Beverage Control  
Hearing Room, Reeves Building, 2000 14th  
Street N.W., Washington, D.C., Chairperson  
Ruthanne Miller presiding.

PRESENT:

RUTHANNE MILLER, Chairperson  
NICK ALBERTI, Member  
DONALD BROOKS, Member

HECTOR RODRIGUEZ, Member

JAMES SHORT, Member

MICHAEL SILVERSTEIN, Member

ALSO PRESENT:

1 P-R-O-C-E-E-D-I-N-G-S

2 (9:51 a.m.)

3 CHAIR MILLER: All right. So we  
4 have several fact findings scheduled for 9:30  
5 this morning. And I understand that we have  
6 a police officer here who we do not want to  
7 detain from performing your duties out in the  
8 streets.

9 MEMBER SILVERSTEIN: That's at 10  
10 o'clock.

11 MALE PARTICIPANT: 10 o'clock.

12 CHAIR MILLER: What, no this is  
13 for 9:30. Are you here for Backdoor Pub?

14 MALE PARTICIPANT: Yes.

15 (Off the record comments)

16 CHAIR MILLER: Right. Bachelor's  
17 Mill, Backdoor Pub? It's all scheduled for  
18 9:30. It's really several scheduled for 9:30.  
19 So I want to -- I called out one, that's Case  
20 Number 14-251-00044, Bachelor's Mill, Backdoor  
21 Pub, located at 1104 8th Street, SE, License  
22 Number 11277 in ANC 6B. Good morning.

1                   MR. BROWN: Good morning. I'm  
2 Timothy Brown, I'm vice-president. I'm also  
3 head of the security committee, which is  
4 charged with doing our own internal  
5 investigation. To my right is --

6                   CHAIR MILLER: But I'm sorry,  
7 could you say your name again?

8                   MR. BROWN: Timothy Brown.

9                   CHAIR MILLER: Timothy Brown,  
10 okay. I'm vice-president and head of the  
11 security committee.

12                  CHAIR MILLER: Okay, good.

13                  MR. BROWN: To my right is David  
14 Lewis, who's the president and sole owner, and  
15 to my right with him is Basell Aziz, who is  
16 the manager on duty at the time of the  
17 incident.

18                  MEMBER SILVERSTEIN: What's your  
19 last name again?

20                  MR. BROWN: My name is Brown.

21                  MEMBER SILVERSTEIN: No. Basell -

22                  -

1 MR. LEWIS: David Lewis.

2 MR. BROWN: No, Baseel.

3 MR. AZIZ: Aziz.

4 MR. BROWN: Aziz, A-Z-I-Z.

5 MEMBER SILVERSTEIN: Okay.

6 CHAIR MILLER: Okay, officer?

7 LT. DURBAN: Lieutenant Diane  
8 Durban, First District.

9 CHAIR MILLER: Thank you,  
10 Lieutenant. Thank you for being here, taking  
11 the time to come.

12 Okay. There was a violent  
13 incident that occurred near this  
14 establishment. And I believe that MPD  
15 generated a 251 with respect to it. And I'm  
16 wondering if you might start and give us your  
17 knowledge as to what happened and your  
18 concerns about it.

19 LT. DURBAN: Well, I didn't bring  
20 a 251, I left it. But I had my officer fax it  
21 to me. So we have some papers from back and  
22 forth for Mr. Jenkins.

1                   On February the 2nd -- make sure  
2                   I've got the right date -- anyway, Bachelor's  
3                   Mill, we had a dispute inside, another  
4                   altercation inside. And when S1, the suspect,  
5                   cut V1, the Victim 1, they were both put out  
6                   of the bar.

7                   And Suspect Number 1 approached  
8                   Victim 1 and then Victim 2 and cut her. And  
9                   she was in serious condition. An officer did  
10                  respond to the, and took a 251. And the  
11                  person was taken to the hospital. And this  
12                  was all within a block of it. It started  
13                  inside and then it finished a block later.

14                 CHAIR MILLER: Okay. I also just  
15                 want to say, I should have said this earlier,  
16                 that this is what we call a fact finding  
17                 hearing. And we don't put anyone under oath  
18                 for this kind of hearing. We're trying to  
19                 gather facts, basically, and see where we go  
20                 from here.

21                 LT. DURBAN: What she had was a  
22                 box cutter.

1 CHAIR MILLER: Box cutter, okay.

2 (Pause)

3 MEMBER ALBERTI: What are we  
4 doing?

5 CHAIR MILLER: I'm waiting for the  
6 Lieutenant. I don't know if she's finished.  
7 Oh, are you finished? Oh, okay. Do you have  
8 some questions, or shall we hear from the --

9 MEMBER ALBERTI: No, I have a  
10 couple of questions.

11 CHAIR MILLER: Okay. Mr. Alberti  
12 has some questions.

13 MEMBER ALBERTI: Lieutenant, I'm  
14 sorry, your last name, I didn't catch your  
15 last name?

16 LT. DURBAN: Durban.

17 MEMBER ALBERTI: Durban, oh.  
18 Lieutenant Durban, thank you for coming. I  
19 know you were the reporting officer here. But  
20 it says in our report there was a Detective  
21 Gargac.

22 LT. DURBAN: Who?

1 MEMBER ALBERTI: G-A-R-G-A-C --

2 LT. DURBAN: Okay.

3 MEMBER ALBERTI: -- that was the  
4 detective. And we have another part, a  
5 statement from him, that the establishment  
6 ejected all the patrons at the same time. Do  
7 you have any knowledge about that at all?

8 LT. DURBAN: Well, I know they put  
9 out S1 and V1, the victim, first victim, who  
10 was arguing inside. So I don't know for sure.  
11 I wasn't there. But I'm assuming since V1 and  
12 V2 were together, they all probably did leave  
13 at the same time.

14 MEMBER ALBERTI: Okay. Because as  
15 read this, that seems to have -- and I'm only  
16 looking at a report -- but the fact that the  
17 victims were able, were so quickly able to  
18 interact outside of the pub seems to have  
19 attributed to this. I don't know if you have  
20 any assessment of that or --

21 LT. DURBAN: Well, knowing that he  
22 put all of them out at the same time, if they

1     have an altercation, a verbal altercation,  
2     whatever, inside, and you put them all at the  
3     same time and the police are not there, then  
4     they are going to continue outside, whether it  
5     was a block away or right outside the door.

6             A lot of times if the police get  
7     on the scene, we will hold one, contain one or  
8     either lock up one.

9             MEMBER ALBERTI:   Okay.   There was  
10    reimbursable detail that evening.   Have you  
11    spoken --

12            LT. DURBAN:   Indeed?

13            MEMBER ALBERTI:   There was  
14    reimbursable detail that evening?

15            LT. DURBAN:   Back with me?

16            MEMBER ALBERTI:   That's what I  
17    have.

18            LT. DURBAN:   Okay.

19            MEMBER ALBERTI:   So you haven't --  
20    taking from that response, you haven't talked  
21    to the officers involved there?

22            LT. DURBAN:   No, I have been



1       talking to --

2                   MEMBER ALBERTI:   Because I'm  
3       wondering what knowledge they had of what  
4       transpired inside and what their actions would  
5       have been when these people were thrown out.

6                   LT. DURBAN:   Okay.  I haven't  
7       talked to the officers --

8                   MEMBER ALBERTI:   Okay, great.  
9       Thank you.

10                  LT. DURBAN:   -- that were  
11       involved.

12                  MEMBER ALBERTI:   Thank you.

13                  CHAIR MILLER:   Are there other  
14       questions for the Lieutenant right now?

15                  MEMBER ALBERTI:   I would ask that  
16       the Lieutenant remain here.  I may have  
17       questions after I hear from the other side.

18                  LT. DURBAN:   No problem.

19                  CHAIR MILLER:   Okay, so --

20                  MR. BROWN:   Would it help the  
21       Board if I just give a quick summary?

22                  CHAIR MILLER:   Absolutely.

1                   MR. BROWN: All right. So about  
2                   at 2:10 on Saturday there was a fight inside  
3                   between two friends. And actually it was  
4                   about six guys. They came as a group.

5                   So the fight was roughly at the  
6                   front door. And by the time security  
7                   intervened and broke it up, it was at the  
8                   front door. And one was escorted out. And  
9                   the other ran out the front door.

10                  Security followed them at the  
11                  time, four members of the security team went  
12                  outside. The two started verbally but not  
13                  physically fighting.

14                  We had a reimbursable detail. Two  
15                  police cars were right there, and one guy was  
16                  taken over to the police detail. And he is  
17                  the gentleman we refer to as the victim.

18                  And he was asked at the time, and  
19                  the police talked to him, security talked to  
20                  him, and he was asked whether he wanted to  
21                  press charges, did he want an escort to his  
22                  car. And they were all parked about two

1 blocks away. And he refused all of that.

2 His primary concern was that we  
3 were detaining him and not the other guy who  
4 was a distance away and that the other guy was  
5 the aggressor who started it.

6 But they were friends. And they  
7 both refused anymore further assistance. And  
8 we asked the police detail. They said that if  
9 the guy does not want to press charges we  
10 can't detain them, and they can't detain them.

11 And so they released the victim,  
12 who was parked about two blocks away, either  
13 in the same group with the same guy or the  
14 other guy was parked with them. They all came  
15 as a group about 30 minutes after that. So  
16 this incident outside of the club, and now the  
17 club is dispersed, there's largely no one  
18 there.

19 Sometime close to 3 o'clock, maybe  
20 about 2:55, the two meet again. And that's  
21 when the cutting incident where the guy was  
22 cut. We're not sure if it's a box cutter or

1 a Shorty, whatever he used, the two, and him  
2 and another friend were cut.

3 CHAIR MILLER: Okay. So what I  
4 find peculiar though is that you're calling  
5 them friends and that they cut --

6 MR. BROWN: They were friends.  
7 They were clearly -- they came together. They  
8 came from another location to our location.  
9 And they know each other.

10 It was an argument over someone  
11 making a pass at somebody else. But these  
12 were all friends. And both the victims say  
13 that, and the aggressor says that. And they  
14 all came together. And it was about six of  
15 them.

16 And we're not sure whether it was  
17 two cars or one car. But this is a group of  
18 friends. And that's in the report, in the  
19 investigator's report. And neither one of  
20 them wanted to press charges or wanted to  
21 pursue this.

22 And the detail, so the security

1       turned them over to the detail. And the  
2       detail told us that, you know, if they don't  
3       want to press charges, we can't hold them and  
4       that there's nothing he can do.

5               So he was released. And his car  
6       was about two blocks away. Two blocks away,  
7       the guy who's now charged, they're calling him  
8       a suspect, re-engaged another friend. And  
9       that's where the incident took place.

10              CHAIR MILLER: And how is it they  
11       didn't, the security didn't detain the  
12       aggressor, that security detained the  
13       "victim"?

14              MR. BROWN: When they went  
15       outside, the victim was across the street.  
16       And the detail instructed security to go get  
17       them. They went to get the victim and brought  
18       him, who was the gentleman who now is known as  
19       the victim, they brought him over to the  
20       reimbursable detail.

21              Probably they should have went and  
22       got the aggressor and brought him over. But

1 he was not going to cooperate in any way. So  
 2 they bring the victim over to the aggressive  
 3 detail. And security then lost sight of the  
 4 aggressor. And then the detail released the  
 5 victim, and he was allowed to walk away.

6 So they go over, they talk to him,  
 7 they bring him over, the detail talks to him,  
 8 you know, he explains to them, hey look, these  
 9 guys were friends. And his point is that I  
 10 wasn't the aggressor. You should be talking  
 11 to the other guy.

12 CHAIR MILLER: So my own question  
 13 is with respect to your jurisdiction. Because  
 14 once the aggressor gets too far, you can't go  
 15 after him, right? So, I mean, was that, you  
 16 know, a point where your security should have  
 17 and could have retained the aggressor?

18 MR. BROWN: The aggressor, and you  
 19 can see from the videotape, was not  
 20 cooperating at all. Inside the place, they  
 21 actually physically restrained him. Then they  
 22 just surrounded him and made the decision that

1 we need to get him outside.

2 It probably would have been better  
3 in hindsight had they kept the other guy  
4 inside and got the aggressor outside. And  
5 then once he got outside, they should not have  
6 lost contact with him. And by that time, they  
7 indeed did lose contact with the more  
8 aggressive.

9 And now, knowing what they know  
10 now, we all know that they drove together or  
11 drove, parked together. We know they came  
12 together. We know they were friends.

13 CHAIR MILLER: How about when, do  
14 you ever call MPD if the reimbursable detail  
15 is outside to let them know that people are  
16 coming out?

17 MR. BROWN: What we do is we get,  
18 well, the detail is sitting right by the front  
19 door. So once we're out, it's just a matter  
20 of, the signal is a flashlight. Once we're  
21 out, we give them a flashlight. And then they  
22 get out and engage.

1                   But we're talking feet. Detail is  
2                   about from here to that back wall. And  
3                   there're two parked cars sitting right on the  
4                   sidewalk. So for us, the detail is always  
5                   right there.

6                   So they're bringing one guy out to  
7                   the detail and trying to turn him over to the  
8                   detail. And the other guy is out. So in  
9                   hindsight, they would have been better served  
10                  trying to keep at least one of them inside.

11                  CHAIR MILLER: And my only  
12                  questioning is for the future, so that if this  
13                  incident was handled better, I'm just  
14                  wondering why you don't call. Can you call  
15                  the reimbursable detail to let them know --

16                  MR. BROWN: And have them come  
17                  inside.

18                  CHAIR MILLER: -- either come in  
19                  or you've got this situation, and a person's  
20                  coming out, be ready to take them.

21                  MR. BROWN: The problem they had,  
22                  so when I interviewed all of the security, the



1     problem they had is that it happened right by  
2     the exit. We have three exit doors. And it  
3     happened right by the exit door.

4             CHAIR MILLER: Yes, yes.

5             MR. BROWN: And when they look up,  
6     now we have both of them outside. That's a  
7     mistake by them. They needed to have done a  
8     better job containing them.

9             Their second problem is they  
10    assume, once you turn either person over to  
11    the reimbursable detail, that's the end of  
12    their responsibility.

13            And they also assume that turning  
14    someone over to the Metropolitan Police detail  
15    is the same as turning them over to the  
16    Metropolitan Police. And really it isn't.

17            CHAIR MILLER: Why isn't it?

18            MR. BROWN: Because the detail is  
19    saying that their jurisdiction is limited and  
20    that if we needed the police to come in we  
21    needed to call, make an additional call to  
22    call the police and not our detail.

1                   So the detail tells us that if a  
2                   guy doesn't want to press charges, if a guy  
3                   doesn't want our assistance, there's nothing  
4                   we can do. And we can't hold this guy if he  
5                   doesn't want our assistance.

6                   We tried to walk to the car,  
7                   because usually people are parked within a  
8                   couple of blocks. But if the guy doesn't want  
9                   our assistance at all, there's nothing we can  
10                  do. So we're going to have to get some  
11                  clarification on what the details can and  
12                  cannot do.

13                  CHAIR MILLER: Right. I think  
14                  that would be a good idea. Is there any light  
15                  you can shed on that today or --

16                  LT. DURBAN: Well, if they have a  
17                  detail that's what's they're there for. If  
18                  they needed assistance, then it's their job to  
19                  call, to get on the radio and call. It  
20                  wouldn't be their responsibility to call if  
21                  they have the police right outside.

22                  CHAIR MILLER: Right, absolutely.

1                   LT. DURBAN: Now, I'll have to  
2                   check and see who was on that detail and what  
3                   actually happened. So I have to check on  
4                   that. So, you know, it's two sides and  
5                   there's a middle.

6                   CHAIR MILLER: Right.

7                   LT. DURBAN: So I don't have that  
8                   other side to sit up here and be able to tell  
9                   you. But if an officer was there, they can  
10                  detain somebody whether they want to or not.  
11                  You can detain somebody.

12                  And they could have got his name,  
13                  and address, and with whom, whatever, and ran  
14                  him through, because they had contact with  
15                  him, and find out if he had a warrant pending  
16                  or something like that. So we could have  
17                  detained him.

18                  So why they didn't detain him, I  
19                  don't know what happened between their side  
20                  and the police, if they say just let him go.  
21                  I don't know. I would have to check into that  
22                  to give you a better answer on that.

1                   But if the police there, they  
2                   supposed to take the proper action if they was  
3                   on the street. A reimbursement detail is to  
4                   say that you have a police sitting out here to  
5                   --

6                   MEMBER SILVERSTEIN: Say again  
7                   please, the reimbursable detail is to --

8                   LT. DURBAN: They pay to have  
9                   security --

10                  MEMBER SILVERSTEIN: Right.

11                  CHAIR MILLER: Right.

12                  LT. DURBAN: -- meaning the police  
13                  out there to take care of their business.  
14                  Now, if something's going on across the  
15                  street, we can't say I'm not MPD today, right  
16                  now. But particularly they're for that.  
17                  Because that's what they're paid for.

18                  So anything, whether something  
19                  happened, we still take the same action  
20                  whether we're reimbursable detail or not. So  
21                  that part I need to check into to find out  
22                  what officers were on the reimbursable detail

1 and actually what did happen, whether they  
2 came out, they just dispersed, did they come  
3 out and get the police and the police, because  
4 I really can't say.

5 And I'm not disputing, you know,  
6 that the officer had some contact and did  
7 nothing, just let them go. Because that's not  
8 usually how we do.

9 MR. BROWN: So we asked the  
10 suspect, he was still there. And the question  
11 then was do we need to try to detain him. And  
12 the detail's conclusion was that if the victim  
13 doesn't want to press charges there is nothing  
14 they can do at that time.

15 CHAIR MILLER: But it sounds like  
16 they could at least get his name and address  
17 and contact information.

18 LT. DURBAN: Whether the victim  
19 was to press charges or not, we still can stop  
20 him, get his name and his information, ask him  
21 what happened. He may not tell us. But we  
22 still can get his information, no booking, and

1     if something went down like it did a block  
2     away, then we had all the information if we  
3     did not, you know, get him at the time that he  
4     cut that second person.

5                   CHAIR MILLER:   Okay, Mr.  
6     Rodriguez?

7                   MR. RODRIGUEZ:   My question is to  
8     the gentleman.  We're talking about a weapon  
9     here.  I'm into weapons.  And my question is  
10    where did the box cutter, was it in the  
11    establishment?  That's a question that I have.

12                  MR. BROWN:   No.  Not only was it  
13    not in the establishment, no one got cut  
14    inside the establishment.  And the victim who  
15    ultimately did get cut is speaking to the  
16    detail at the time.  So the gentleman who got  
17    cut, about 20 minutes later, is with the  
18    reimbursable detail.  So he's --

19                  MR. RODRIGUEZ:   How can I be  
20    assured -- I'm sorry.  How can I be assured  
21    that the weapon was not in the establishment?

22                  MR. BROWN:   You can read the

1 investigator's report which is a little bit  
2 more detailed. But the gentleman was fully  
3 searched coming in. We have a 100 percent  
4 search policy. We have metal detectors and  
5 scanners. And not even the victim says he was  
6 cut inside the establishment.

7 MR. RODRIGUEZ: So you do have  
8 wandering and --

9 MR. BROWN: We do have wandering --  
10 we had six security officers on staff at that  
11 time. And we have wandering, we have pat-down  
12 searches.

13 And so the cutting or stabbing, if  
14 you will, takes place about 30 minutes to 40  
15 minutes after the initial event. And it takes  
16 place about two blocks away at their cars.

17 MR. RODRIGUEZ: Okay. And one  
18 last concern I have is that people keep  
19 branding people as friends. And friends doing  
20 things to each other like that, I question  
21 that. But that's just a point I'm just going  
22 to make about it, that they were friends, you

1 know. And I'll stop there. Thank you, Madam  
2 Chair.

3 LT. DURBAN: Madam Chair, for the  
4 report, I didn't bring the report because,  
5 like I say, I left it. And I had the officer  
6 text me what the body of the report said.

7 And I was reading it last night.  
8 And it said, on a list of date and time, S1  
9 became involved into a verbal altercation  
10 inside of the listed location. S1 produced a  
11 box cutter and cut Victim 1. Victim 1 and  
12 Victim 2 left the location. S1 confronted  
13 Victim 1 and Victim 2 again and cut Victim 2.  
14 S1 then fled. And that's what it says on the  
15 report. Thank you.

16 MR. BROWN: The report really  
17 isn't accurate. But there's enough, I think,  
18 in the investigator's report and the victim's  
19 statement for you to be assured that it did  
20 not happen inside the club.

21 And we know absolutely that the  
22 reimbursable detail, the police spoke with the



1 victim and the visual evidence that she had  
2 been cut at that time. But the victim gives  
3 his own further statement.

4 There is also a Washington Post  
5 article as well, I believe, that gives you  
6 even more detail of what happens. And so  
7 while between the police report and  
8 investigator's report, some of the facts are  
9 identical. There was no stabbing inside. It  
10 takes place about 30 minutes later, about two  
11 blocks away.

12 CHAIR MILLER: Okay. Mr.  
13 Silverstein?

14 MEMBER SILVERSTEIN: There's no  
15 way you can hold a person in a club against  
16 their will, correct?

17 MR. BROWN: No, you can't. If the  
18 person, originally one of the victims, the  
19 aggressor was actually physically restrained  
20 and held. That just seemed to be escalating.  
21 So then the effort is to try to keep them  
22 contained. But he was at the front door. But

1 no, we can't physically keep you inside.

2 MEMBER SILVERSTEIN: Maybe you've  
3 thought of this, is there anything that you  
4 can do? Have you issued a barring order  
5 against these friends?

6 MR. BROWN: Yes.

7 MEMBER SILVERSTEIN: With friends  
8 like this, you don't need enemies.

9 CHAIR MILLER: Right.

10 MR. BROWN: We definitely, both  
11 individuals will be barred. But it's still not  
12 even clear that, because no one actually saw  
13 the original -- it's hard to say that he  
14 started it or the other started it. So we  
15 barred both of them. And that tends to be  
16 relatively effective for us. But they are  
17 most certainly friends. They all know each  
18 other.

19 MEMBER SILVERSTEIN: I don't want  
20 to take up too much time. Because we have  
21 about three hours worth of, or two hours worth  
22 of hearings here scheduled. And we're already

1 15 minutes behind schedule or an hour behind  
2 schedule.

3 One of the problems that we are  
4 having everywhere is that people walk out of  
5 a club, and either someone's waiting for them  
6 outside or they go to a car and get a weapon  
7 that they don't have inside the club. And  
8 this seems to fit into that second category.

9 Very briefly, tell me what you've  
10 learned about this and what you're going to do  
11 differently or if, in fact, you're simply  
12 powerless because your authority stops,  
13 legally, at the front door.

14 MR. BROWN: So we actually have  
15 some videotape that security can watch after  
16 this hearing and the results. We were  
17 advising the procedures.

18 While it's not possible to see  
19 both of them out of the area, it is possible  
20 to at least pick one and stay with him beyond  
21 the reimbursable detail. So the detail's  
22 conclusion was to let them go.

1                   Security has about a two to three  
2                   block walking radius at closing. They could  
3                   have and should have saw the other one to his  
4                   car. And so our goal is to make sure you see  
5                   one of them out in the area.

6                   And there was more than enough  
7                   security there to ensure that at least what  
8                   seemed to be the victim actually got to his  
9                   car and left the area.

10                  And so it's, you know, our policy  
11                  is to try to see people to their cars and make  
12                  sure they get out of the area. But they ought  
13                  to make sure that at least one of them gets  
14                  out of the area, regardless of what the detail  
15                  suggests.

16                  Because the detail may very well  
17                  be correct that there's nothing the police can  
18                  do if people don't want to press charges,  
19                  beyond talking to them. But we at least could  
20                  have seen one of them to their car.

21                  But the security is deferring to  
22                  the detail. And we think we're going to have

1 to revise the guidelines so that they  
2 understand that their responsibility continues  
3 beyond whatever decision is made. Because in  
4 the end it affects us.

5 MEMBER SILVERSTEIN: Thank you.

6 CHAIR MILLER: Mr. Short?

7 MEMBER SILVERSTEIN: I have no  
8 further questions.

9 CHAIR MILLER: Yes, Mr. Short?

10 MR. SHORT: Yes, good morning.

11 MR. BROWN: Good morning.

12 MR. SHORT: Looking at the report  
13 and looking at your investigative history at  
14 the club, this is not the first assault.  
15 You've had someone cut at the club, correct?

16 MR. BROWN: I think on our  
17 investigative history we have something  
18 assigned to us does not belong there. I don't  
19 recall if there has been a stabbing or a  
20 cutting in 20 years.

21 (Crosstalk)

22 MR. SHORT: I'd like to also ask

1 the question, are these clients or customers  
2 regular within your establishment?

3 MR. BROWN: This group of six was  
4 not. But most of our customers have been  
5 coming since it's been opened. And it's been  
6 open almost 25, 30 years. And we often  
7 estimate about 70 percent of our customers  
8 have been coming there they've been 21.

9 MR. SHORT: And not to prolong  
10 this, I'm looking also at your security plan  
11 and the admission of something in your  
12 security plan about walking a person to their  
13 vehicle.

14 MR. BROWN: Right.

15 MR. SHORT: So that didn't happen  
16 this night?

17 MR. BROWN: That didn't happen  
18 this night. Because the security assumed that  
19 their responsibility ended once the individual  
20 was with the reimbursable police detail. And  
21 that's what we're going to change in the plan.

22 MR. SHORT: Does your plan say

1     that? Your plan says take them to the car,  
2     correct?

3                 MR. BROWN: No. I doesn't. And  
4     so they were making a judgement call at the  
5     time that if the detail tells them there's  
6     nothing more they can do they can go back  
7     inside. If the detail says they're going to  
8     release the guy, then there's nothing they can  
9     do.

10                But our plan is now going to make  
11     it clear that you need to, you know, we have  
12     a zone. You need to walk them out that zone.

13                CHAIR MILLER: Yes, Mr. Alberti?

14                MEMBER ALBERTI: Mr. Brown?

15                MR. BROWN: Hi.

16                MEMBER ALBERTI: Hello. I'm  
17     having a little trouble matching your  
18     statements with the facts established in the  
19     report, all right. So, you talk about the  
20     more aggressive person.

21                MR. BROWN: Right.

22                MEMBER ALBERTI: And then we have

1 the victim. Which one was escorted out first  
2 to your knowledge?

3 MR. BROWN: The victim left first.

4 MEMBER ALBERTI: Okay, the victim  
5 left first?

6 MR. BROWN: Right. He was  
7 actually escorted out, physically detained and  
8 walked out. And security attempted to retain  
9 the more aggressive one inside. And this is  
10 all at the front door. But he runs out the  
11 door. Then everybody followed them.

12 MEMBER ALBERTI: Okay. So that's  
13 not matching up with what I see. And here's  
14 the problem. And this comes from your  
15 cameras.

16 MR. BROWN: Right.

17 MEMBER ALBERTI: It says at  
18 2:37:11 the more aggressive person is seen on  
19 the dance floor and takes his shirt off on the  
20 dance floor, okay. And then it says security  
21 detains him and walks him away from the crowd.  
22 That's the statement I have. And this is



1       happening at 2:37 and 11 seconds, all right.

2               Thirty seconds later, 30 seconds  
3       later, security is observed holding on to the  
4       less aggressive patrons, patrons it says, and  
5       leads him out of the exit door with a friend.

6               MR. BROWN: Right.

7               MEMBER ALBERTI: All right. So,  
8       according to you, security had the more  
9       aggressive person. Thirty seconds later they  
10      had the less aggressive person in their hands,  
11      all right. And they didn't keep either one of  
12      them inside.

13              And I'm not hearing that you tell  
14      me that they made any attempt to keep either  
15      one of them inside, all right. I'm just going  
16      by what you said.

17              And this bothers me, because it  
18      says the preceding victim shall be directed to  
19      the general manager's office and/or the  
20      designated clearing area.

21              So I don't hear anything in your  
22      statement saying that, oh, well, we had the

1 less aggressive person, and we tried to keep  
2 him, we tried to keep him while the more  
3 aggressive person was ejected and handed over  
4 to the MPD. The camera facts are not matching  
5 up with the story you just told us.

6 MR. BROWN: Right. But I submit  
7 to you that the facts you're delivering do not  
8 match the camera footage.

9 MEMBER ALBERTI: Pardon?

10 MR. BROWN: The facts you're just  
11 stating does not match the camera footage.  
12 And we have --

13 MEMBER ALBERTI: What do you mean  
14 it doesn't?

15 MR. BROWN: We still --

16 MEMBER ALBERTI: I just read from  
17 the camera footage. What facts did I state  
18 that don't match the camera footage?

19 MR. BROWN: Let me say it again.  
20 The victim, the individual who proved to be  
21 the victim was escorted out first. The  
22 security at the time --

1                   MEMBER ALBERTI: They escorted the  
2 victim out first?

3                   MR. BROWN: Right. He was allowed  
4 to leave.

5                   MEMBER ALBERTI: At that time?

6                   MR. BROWN: Right.

7                   MEMBER ALBERTI: What was the  
8 status of the more aggressive person? Was he  
9 in custody?

10                  MR. BROWN: He's being detained by  
11 security. They have one person has him  
12 physically --

13                  MEMBER ALBERTI: Yes.

14                  MR. BROWN: -- they've surrounded  
15 him physically. And then he runs out the  
16 front door and they follow. So it is true  
17 that they allowed the more aggressive one when  
18 they should have attempted to try to keep him  
19 contained.

20                  MEMBER ALBERTI: Right. And why  
21 not keep the victim inside? Because that's  
22 what your security plan calls for, is to keep

1 the less aggressive person, not the more  
2 aggressive person, to keep the less aggressive  
3 person inside, presumably to keep him safe.  
4 Why wasn't that --

5 MR. BROWN: It was --

6 MEMBER ALBERTI: Let me finish.  
7 Why wasn't that done here?

8 MR. BROWN: They literally had no  
9 time. We're talking seconds. We're talking  
10 an incident that takes place right at the  
11 front door. And we're really talking seconds.  
12 They literally did not have the time to figure  
13 out which of the two. What the could figure  
14 out was which one was more belligerent at the  
15 time.

16 MEMBER ALBERTI: I think Lt. Durban  
17 here has --

18 LT. DURBAN: Yes. Also it says  
19 the fight, it was a fight inside when one was  
20 hit with a beer bottle over the head. That  
21 started that incident. So he was injured  
22 inside the place, one of them, the victim.

1       Victim 1 was injured inside.   And Victim 1 and  
2       Victim 2 left.

3                   MEMBER ALBERTI:   That's in your  
4       report?

5                   LT. DURBAN:   Yes, sir.

6                   MEMBER ALBERTI:   Okay.   So the  
7       report says the victim was injured inside?

8                   LT. DURBAN:   Inside, on the dance  
9       floor.   He was dancing.   And a group of  
10      friends came over.   Suddenly he was  
11      approached, and then he was hit on the head  
12      with a beer bottle which led to the fight.

13                  MEMBER ALBERTI:   That only adds to  
14      my discomfort of what I'm hearing today.

15                  CHAIR MILLER:   Other questions?  
16      Mr. Short?

17                  MR. SHORT:   I would agree though,  
18      Madam Chair, that the video needs to be seen  
19      and we need the full police report before we  
20      can actually make any decisions that were  
21      appropriate to the situation.

22                  CHAIR MILLER:   Right.   And we're

1 not making any decisions today.

2 MR. SHORT: Okay, I understand.

3 CHAIR MILLER: So, yes, we wanted  
4 to give them a chance to come in and give us  
5 more information about the case.

6 MEMBER ALBERTI: Ms. Miller, my  
7 recommendation would be to forward this case  
8 to the Office of the Attorney General and then  
9 make him look at the evidence and decide  
10 whether there is enough there to take it  
11 forward.

12 But from what I see today, there's  
13 enough cause here to send it to the Office of  
14 the Attorney General for a possible show cause  
15 of action. That's my opinion on this. And  
16 that is a possible action of the outcome of  
17 these fact findings.

18 LT. DURBAN: Excuse me, one other  
19 thing. It says in here, through the detective  
20 report, that they are counting on video  
21 footage that is approximately 25 minutes ahead  
22 of real time. So that video tape needs to

1 match up with it.

2 MEMBER ALBERTI: Right. But the  
3 sequence --

4 LT. DURBAN: Yes.

5 MEMBER ALBERTI: But the relative  
6 sequence still is not, is unacceptable here.

7 CHAIR MILLER: Okay. Well, I'm  
8 not so sure. I mean, I think our other choice  
9 is to take it under advisement and to take a  
10 closer look at it and then decide what we want  
11 to do. I don't think we have to make that  
12 decision right now.

13 MEMBER ALBERTI: Well, then pick a  
14 time and, just to keep things rolling, I'll  
15 make a motion that we send this over to  
16 Evidence Use Office for, certainly I want to  
17 show cause of stating my motion.

18 CHAIR MILLER: Okay. Any other  
19 comments on the motion or questions? All  
20 right, all those in favor of the motion say  
21 aye.

22 (Chorus of Ayes)

1                   CHAIR MILLER: All those opposed,  
2 all those abstaining? So that is five to zero  
3 to one. But I would like to say, about what  
4 I've heard today, that it's concerning. And  
5 I think that's easily, I hope, solvable.

6                   So there doesn't seem to be a  
7 clear understanding between the establishment  
8 and reimbursable detail as to what was each  
9 play, and if you have an incident how you can  
10 call upon the reimbursable detail that's there  
11 to assist you.

12                  Because it sounds to me like you  
13 had an incident, you had two people you were  
14 trying to watch. And the reimbursable detail  
15 was right there to help you. And it doesn't  
16 sound like you all communicated well enough to  
17 get their assistance.

18                  And also, as far as jurisdiction,  
19 you know, when it's MPD's jurisdiction,  
20 usually we've heard that when it's outside the  
21 club it's their jurisdiction, inside of the  
22 club is your jurisdiction.



1                   So I strongly urge you to have  
2                   that communication with MPD so that you all  
3                   know what you can do to prevent these and how  
4                   you work together. And can you help us with  
5                   that, can you help them with that?

6                   LT. DURBAN: Yes. Because we have  
7                   that reimbursable detail. And that's, to my  
8                   knowledge, never happened like that. If  
9                   something happened outside that club, outside  
10                  the door, they step right up. Because that's  
11                  our job.

12                 CHAIR MILLER: Yes, right.

13                 LT. DURBAN: And, I mean, we have  
14                  it all over the city. And I've never known  
15                  them to fully say it's not my jurisdiction, I  
16                  don't have --

17                 MR. SHORT: And that didn't sound  
18                  right either.

19                 CHAIR MILLER: Mr. Silverstein?

20                 MEMBER SILVERSTEIN: The report is  
21                  confused. The information that we have is not  
22                  particularly great. The event occurred at

1     least 15 minutes after people left and went  
2     and walked away.  I abstained on this.

3                   CHAIR MILLER:  Oh, you did?

4                   MEMBER SILVERSTEIN:  Yes, I did.

5                   CHAIR MILLER:  Oh, I'm sorry.  Me  
6     too.

7                   MEMBER SILVERSTEIN:  I don't want  
8     this club to be held at any different level of  
9     scrutiny than any other club.  And if we're  
10    going to, you know -- and I don't have a  
11    problem with it being sent to the OAG for  
12    further inspection.  But I don't want to be  
13    scapegoating here.

14                   And my abstention was simply,  
15    okay, if you want to learn more, fine.  But I  
16    don't want to be spending a whole lot of time  
17    dealing with cases of people settling scores  
18    blocks away at twenty minutes after.

19                   If we did, there wouldn't be a  
20    club in this city that would be safe from  
21    retribution because people want to settle  
22    scores.  That's all I'm going to say.  I have

1       some other things, but that's it.

2                   CHAIR MILLER:   And I --

3                   MR. SHORT:   I'd just like to  
4       address that.   The testimony that I'm reading,  
5       and the information we're reading and the  
6       testimony has been someone was struck over the  
7       head with a bottle of beer inside the  
8       establishment on the dance floor which was not  
9       two blocks away.   We're talking inside of this  
10      ABC establishment.   Just for the record, I'd  
11      like for that to be clear.

12                  CHAIR MILLER:   Right, okay.   All  
13      right, anything else?

14                  MEMBER ALBERTI:   Yes.   And someone  
15      else was talking, I was going to mention that  
16      we haven't heard what MPD said.   We missed the  
17      most detailed side of the story.   So to assume  
18      that they erred is premature.   Because I  
19      haven't heard their side of the story.   I've  
20      only heard one.   So, Lieutenant, I don't know  
21      what your officers did.   They may have acted  
22      correctly.

1                   LT. DURBAN: Yes. Definitely I  
2 will check on that.

3                   MEMBER ALBERTI: I'm assuming  
4 nothing.

5                   LT. DURBAN: Yes.

6                   CHAIR MILLER: I'm not assuming  
7 anything either, just gathering the facts and  
8 getting your -- my feedback, from what I've  
9 heard, sounds like you've certainly, it sounds  
10 like you can improve your communication in the  
11 event, that you can coordinate better.

12                   Okay. So I just need to, that  
13 motion then was four to zero to table, is that  
14 right?

15                   MEMBER ALBERTI: Yes, seconded.

16                   CHAIR MILLER: Okay, four to zero  
17 to two, for the record. Okay. So thank you  
18 very much for coming down. And good luck in  
19 working that out.

20                   (Whereupon, the hearing in the  
21 above-entitled matter was concluded at 10:31  
22 a.m.)

A	Alcoholic 1:2,12,13	B	Brown 3:1,2,8,8,9	14:12 15:13 16:11
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<b>ABC</b> 43:10	<b>altercation</b> 5:4 8:1	<b>back</b> 4:21 8:15 16:2	13:14 14:18 15:17	20:11 21:15 22:5
<b>able</b> 7:17,17 19:8	8:1 24:9	31:6	16:16,21 17:5,18	24:2,3 25:12 26:9
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44:21	<b>and/or</b> 33:19	2:13,17,20	23:9 24:16 25:17	37:15,18,22 38:3
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<b>abstained</b> 42:2	<b>anyway</b> 5:2	<b>barring</b> 26:4	30:17 31:3,14,15	43:2,12 44:6,16
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38:15,16	<b>April</b> 1:11	<b>believe</b> 4:14 25:5	<b>business</b> 20:13	<b>charges</b> 10:21 11:9
<b>actions</b> 9:4	<b>area</b> 27:19 28:5,9	<b>belligerent</b> 36:14	<b>C</b>	12:20 13:3 18:2
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